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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/681,928 | 06/27/2001 | George Mazereeuw | 03DV-9049 | 8319 |
| 23465 | 7590 | 06/16/2004 | EXAMINER | |
| JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740 | | | TANNER, HARRY B | |
| | | ART UNIT | | PAPER NUMBER |
| | | 3744 | | |
| DATE MAILED: 06/16/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/681,928 | MAZEREEUW, GEORGE | |
| | Examiner | Art Unit | |
| | Harry B. Tanner | 3744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 2,3,5-26,28,29,31-36,38,39 and 41-69 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 2,3,5-26,28,29,31-36,38,39 and 41-69 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5-7, 9-26, 28-29, 31-36, 38 and 47-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu in view of Gelber et al. Torimitsu discloses the invention substantially as claimed. Torimitsu discloses a control of a plurality of refrigerators/ freezers each having attached control devices 17 in communication with administrative computers/centers 100, 200 using signal transmission means 10A in order to transmit control and monitoring data. Gelber teaches the use of a radio frequency interface in order to provide wireless communication in a refrigeration system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the use of a radio frequency interface in order to provide wireless communication in the refrigeration system in view of the teachings of Gelber. The specific control and monitoring data transmitted between the refrigerators/ freezers and the administrative computers/centers is considered to have been obvious matters of engineering design choice based upon the specific installation and operating environments of the controlled refrigerators/ freezers.

Claims 2-3, 6, 8, 39 and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu in view of Efron et al. Torimitsu discloses the

invention substantially as claimed. Torimitsu discloses a control of a plurality of refrigerators/ freezers each having attached control devices 17 in communication with administrative computers/centers 100, 200 using signal transmission means 10A in order to transmit control and monitoring data. Efron teaches the use of an infrared interface in order to provide wireless communication in a refrigeration system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the use of an infrared interface in order to provide wireless communication in the refrigeration system in view of the teachings of Efron. The specific control and monitoring data transmitted between the refrigerators/ freezers and the administrative computers/centers is considered to have been obvious matters of engineering design choice based upon the specific installation and operating environments of the controlled refrigerators/ freezers.

Applicant's arguments filed March 22, 2004 have been fully considered but they are not persuasive. For example with respect to applicant's contention that the references do not provide motivation for making the combination nor suggest the making the combination, it is noted that the references do not have to suggest making the combination nor provide a motivation for making the combination. All that is required is that the references taken as a whole would suggest to one of ordinary skill in the art that the combination would have been obvious at the time the invention was made. Torimitsu clearly shows controlling a plurality of refrigerators remotely over a communication channel. Gelber and Efron show various communication channels used in air conditioning and

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refrigeration systems. It is the examiner position that one of ordinary skill in the art would have considered the substitution of one type of communication channel used in the art with another type of communication channel also used in the art to have been obvious.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Harry B. Tanner
Primary Examiner

Harry Tanner
June 10, 2004
703-308-2622